

AMENDED IN SENATE MARCH 24, 2004

AMENDED IN SENATE MARCH 15, 2004

SENATE BILL

No. 1090

Introduced by Senator Dunn

January 8, 2004

An act to amend Section 798.71 of the Civil Code, and to amend Sections 18060.5, 18062.2, and 18063 of the Health and Safety Code, relating to manufactured homes and mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1090, as amended, Dunn. Manufactured homes and mobilehomes.

(1) Under the existing Mobilehome Residency Law, the management may not prohibit the listing nor the sale of a manufactured home or mobilehome within the park by the homeowner, an heir, joint tenant, or personal representative of the estate who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who was a homeowner at the time of his or her death, or the agent of any such person other than the management, nor require the selling homeowner, or an heir, joint tenant, or personal representative of the estate who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who was a homeowner at the time of his or her death, to authorize the management to act as the agent in the sale of a manufactured home or mobilehome as a condition of management's approval of the buyer or prospective homeowner for residency in the park.

This bill would additionally provide that the management may not require the selling homeowner or an heir, joint tenant, or personal

representative of the estate who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who was a homeowner at the time of his or her death, to authorize any other specified broker, dealer, or person to act as the agent in the sale of a manufactured home or mobilehome as a condition of management's approval of the buyer or prospective homeowner for residency in the park. The bill would also make technical changes in those provisions.

(2) The existing Mobilehomes-Manufactured Housing Act of 1980 prescribes conduct that is an unlawful business practice with respect to the sale of manufactured homes and mobilehomes, makes it unlawful for a *dealer or* salesperson to engage in specified conduct, and makes it a misdemeanor to engage in those practices or that conduct.

This bill would revise a provision that makes it an unlawful business practice to participate in the sale of a manufactured home, mobilehome, or commercial coach without making the return and payment of sales tax due.

The bill would additionally make it an unlawful business practice to fail, at the time that the seller accepts a buyer's offer for a manufactured home or mobilehome that is not a new manufactured home or mobilehome, to execute a document or provision within an existing document signed by both the dealer and seller that discloses the exact amount of the buyer's offer and the specific amounts of any commission and each and every other payment being made to the dealer or any employee or agent of the dealer, and by the dealer, from sale proceeds to any other person. The bill would require the dealer to submit a copy of that disclosure into escrow and maintain, at the dealer's place of business, a copy of that disclosure for 3 years from the date of sale. ~~The~~

The bill would make it unlawful for a *dealer, or a* salesperson who is also an owner or manager or an agent of the owner or manager of a mobilehome park, to violate specified provisions of the Mobilehome Residency Law relating to the *sale or* transfer of mobilehomes.

~~(3) The act makes it unlawful for a dealer to violate specified provisions of the Mobilehome Residency Law.~~

~~This bill would make it unlawful for a dealer to violate additional specified provisions of the Mobilehome Residency Law.~~

~~(4)–~~

The bill would revise terminology in the provisions relating to conduct by a dealer in the sale or advertising of a manufactured home,



mobilehome, or commercial coach generally from “commercial coach” to “commercial modular.”

(3) The bill would specify the extent to which regulations of the department to implement and interpret provisions of the bill are editorial changes for purposes of the Administrative Procedure Act.

Because violations of various provisions of the bill would create new crimes, the bill would create a state-mandated local program.

~~(5)~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 798.71 of the Civil Code is amended to
2 read:

3 798.71. (a) (1) The management may not show or list for
4 sale a manufactured home or mobilehome without first obtaining
5 the owner’s written authorization. The authorization shall specify
6 the terms and conditions regarding the showing or listing.

7 (2) Management may require that a homeowner advise
8 management in writing that his or her manufactured home or
9 mobilehome is for sale. If management requires that a homeowner
10 advise management in writing that his or her manufactured home
11 or mobilehome is for sale, failure to comply with this requirement
12 does not invalidate a transfer.

13 (b) The management shall prohibit neither the listing nor the
14 sale of a manufactured home or mobilehome within the park by the
15 homeowner, an heir, joint tenant, or personal representative of the
16 estate who gains ownership of a manufactured home or
17 mobilehome in the mobilehome park through the death of the
18 owner of the manufactured home or mobilehome who was a
19 homeowner at the time of his or her death, or the agent of any such
20 person other than the management.



(c) The management shall not require the selling homeowner, or an heir, joint tenant, or personal representative of the estate, who gains ownership of a manufactured home or mobilehome in the mobilehome park through the death of the owner of the manufactured home or mobilehome who was a homeowner at the time of his or her death, to authorize the management or any other specified broker, dealer, or person to act as the agent in the sale of a manufactured home or mobilehome as a condition or resale of the home in the park or of management's approval of the buyer or prospective homeowner for residency in the park.

(d) Nothing in this section shall be construed as affecting the provisions of the Health and Safety Code governing the licensing of manufactured home or mobilehome salespersons or dealers.

SEC. 2. Section 18060.5 of the Health and Safety Code is amended to read:

18060.5. With respect to business practices, it is unlawful to do any of the following:

(a) Knowingly purchase, sell, or otherwise acquire or dispose of a stolen manufactured home, mobilehome, or commercial coach.

(b) Violate any of the terms or provisions of regulations promulgated under the authority of Section 18015.

(c) Cause the state or any person to suffer any loss or damage by reason of any fraud or deceit practiced on them or fraudulent representations made to any person in the sale or purchase of a manufactured home, mobilehome, or commercial coach or parts or accessories thereof.

(d) Violate any of the terms and conditions of Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code.

(e) Move a manufactured home, mobilehome, or commercial coach subject to registration pursuant to this part from a mobilehome park or other site of installation to another location, without obtaining from the legal owner, written consent for the move as prescribed in Section 18099.5.

(f) Include as an added cost to the selling price of a manufactured home, mobilehome, or commercial coach, an amount for licensing or transfer of title of the manufactured home, mobilehome, or commercial coach, which amount is not due to the state unless, prior to the sale, the amount has been paid by a dealer

1 to the state in order to avoid penalties that would have accrued
2 because of late payment of those fees. However, a dealer may
3 collect from the second purchaser of a manufactured home,
4 mobilehome, or commercial coach, a prorated fee based upon the
5 number of months remaining in the registration year for that
6 manufactured home, mobilehome, or commercial coach, if the
7 manufactured home, mobilehome, or commercial coach was
8 previously sold by the dealer and the sale was subsequently
9 rescinded and all the fees that were paid, as required by this part
10 and Chapter 2 (commencing with Section 10751) of Division 2 of
11 the Revenue and Taxation Code, were returned to the first
12 purchaser of the manufactured home, mobilehome, or commercial
13 coach.

14 (g) Participate in the sale of a manufactured home,
15 mobilehome, or commercial coach reported to the department
16 pursuant to this part without making the return and payment of any
17 sales tax due and required by Section 6451 of the Revenue and
18 Taxation Code.

19 (h) Fail to exercise reasonable supervision over the activities of
20 employees who negotiate or promote the sale of manufactured
21 homes, mobilehomes, or commercial coaches.

22 (i) Display for sale, offer for sale, or sell, a manufactured home,
23 mobilehome, or commercial coach, representing that
24 manufactured home, mobilehome, or commercial coach to be of
25 a year model different from the year model designated at the time
26 of manufacture or first assembly as a completed manufactured
27 home, mobilehome, or commercial coach.

28 (j) Directly or indirectly authorize or advise another licensee to
29 change the year model of a manufactured home, mobilehome, or
30 commercial coach in the inventory of the other licensee.

31 (k) Fail, at the time that the seller accepts a buyer's offer for a
32 manufactured home or mobilehome that is not a new
33 manufactured home or mobilehome, to execute a document or
34 provision within an existing document signed by both the dealer
35 and seller, that discloses the exact amount of the buyer's offer and
36 the specific amounts of any commission and each and every other
37 payment being made to the dealer or any employee or agent of the
38 dealer, and by the dealer, from sale proceeds to any other person.
39 The dealer shall submit a copy of that disclosure into escrow and



1 maintain, at the dealer's place of business, a copy of that disclosure
2 for three years from the date of sale.

3 SEC. 3. *Section 18062.2 of the Health and Safety Code is*
4 *amended to read:*

5 18062.2. It is also unlawful for a dealer to do any of the
6 following:

7 (a) Engage in the business for which the dealer is licensed
8 without at all times maintaining an established place of business.

9 (b) Employ any person as a salesperson who is not licensed
10 pursuant to this part, or whose license or 90-day certificate is not
11 displayed on the premises of the dealer as provided in Section
12 18063.

13 (c) Permit the use of the dealer's license, supplies, or books by
14 any other person for the purpose of permitting that person to
15 engage in the sale of manufactured homes, mobilehomes, or
16 commercial ~~coaches~~ *modulars*, or to permit the use of the dealer's
17 license, supplies, or books to operate a secondary location to be
18 used by any other person, if the licensee has no financial or
19 equitable interest or investment in the manufactured homes,
20 mobilehomes, or commercial ~~coaches~~ *modulars* sold by, or the
21 business of, or secondary location used by, the person, or has no
22 such interest or investment other than commissions,
23 compensations, fees, or any other thing of value received for the
24 use of the dealer's license, supplies, or books to engage in the sale
25 of manufactured homes, mobilehomes, or commercial ~~coaches~~
26 *modulars*.

27 (d) Advertise any specific manufactured home, mobilehome,
28 or commercial ~~coach~~ *modular* for sale without identifying the
29 manufactured home, mobilehome, or commercial ~~coach~~ *modular*
30 by its serial number or by the number on its federal label or insignia
31 of approval issued by the department.

32 (e) Advertise the total price of a manufactured home,
33 mobilehome, or commercial ~~coach~~ *modular* without including all
34 costs to the purchaser at the time of delivery at the dealer's
35 premises, except sales tax, title and registration fees, finance
36 charges, and any dealer documentary preparation charge. The
37 dealer documentary preparation charge shall not exceed twenty
38 dollars (\$20).

39 (f) Exclude from the advertisement of a manufactured home,
40 mobilehome, or commercial ~~coach~~ *modular* for sale information

1 to the effect that there will be added to the advertised total price at
2 the time of sale, charges for sales tax, title and registration fees,
3 escrow fees, and any dealer documentary preparation charge.

4 (g) Represent the dealer documentary preparation charge as a
5 governmental fee.

6 (h) Refuse to sell the manufactured home, mobilehome, or
7 commercial ~~coach~~ modular to any person at the advertised total
8 price for that manufactured home, mobilehome, or commercial
9 ~~coach~~ modular, exclusive of sales tax, title fee, finance charges,
10 and dealer documentary preparation charge, which charge shall
11 not exceed twenty dollars (\$20), while it remains unsold, unless
12 the advertisement states the advertised total price is good only for
13 a specified time and that time has elapsed.

14 (i) Not post the salesperson's license in a place conspicuous to
15 the public on the premises where they are actually engaged in the
16 selling of manufactured homes, mobilehomes, and commercial
17 ~~coaches~~ modulares for the employing dealer. The license shall be
18 displayed continuously during their employment. If a
19 salesperson's employment is terminated, the dealer shall return the
20 license to the salesperson.

21 (j) Offer for sale, rent, or lease within this state a new
22 manufactured home, mobilehome, or commercial ~~coach~~ modular
23 whose manufacturer is not licensed under this part.

24 (k) To violate Section 798.71 or 798.74 of the Civil Code, or
25 both.

26 *(l) When the dealer is an owner or manager, or an agent of the*
27 *owner or manager, of a mobilehome park and serves as the dealer*
28 *for a manufactured home or mobilehome to be installed or sold in*
29 *the park, to violate Section 798.72, 798.73, 798.73.5, 798.75.5, or*
30 *798.83 of the Civil Code.*

31 SEC. 4. Section 18063 of the Health and Safety Code is
32 amended to read:

33 18063. It is unlawful for a salesperson to do any of the
34 following:

35 (a) At the time of employment, not deliver to his or her
36 employing dealer his or her salesperson's license or 90-day
37 certificate.

38 (b) Fail to report in writing to the department every change of
39 residence within five days of the change.

1 (c) Act or attempt to act as a salesperson while not employed
2 by a dealer. For purposes of this subdivision, “employment by a
3 dealer” means employment reported to the department pursuant
4 to subdivision (c) of Section 18060.

5 (d) To violate Section 798.71 or 798.74 of the Civil Code, or
6 both.

7 (e) When the salesperson is an owner or manager, or an agent
8 of the owner or manager, of a mobilehome park and serves as the
9 salesperson for a manufactured home or mobilehome to be
10 installed or sold in the park, to violate Section 798.72, 798.73,
11 798.73.5, 798.75.5, or 798.83 of the Civil Code.

12 ~~SEC. 4.—~~

13 *SEC. 5.* Any regulations adopted by the Department of
14 Housing and Community Development in Title 25 of the
15 California Code of Regulations to implement and interpret the
16 amendments in Sections 2 to 6, inclusive, of this act shall be
17 deemed editorial changes pursuant to the Administrative
18 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
19 Part 1 of Division 3 of Title 2 of the Government Code), if they are
20 amendments, repeals, or adoptions that are substantially the same
21 in content as the provisions of Sections 2 to 6, inclusive, of this act.

22 ~~SEC. 5.—~~

23 *SEC. 6.* No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

